

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 11682 Permit 6817 License 5459

ORDER AMENDING LICENSE

WHEREAS:

1. License 5459 was issued to Grace S. Pearson, J. E. Pearson, Merle Pearson, and Ann Pearson Liles and recorded at the office of the Mono County Recorder on March 25, 1959.
2. License 5459 was subsequently assigned to Brian and Danica Berner.
3. License 5459 confers upon Brian and Danica Berner an appropriate right to use water from Hilton Creek tributary to the Owens River in Mono County.
4. Fish and Game Code Section 5946 requires that the State Water Resources Control Board condition Licenses that authorize diversion of water in Department of Fish and Game District 4 ½ (Inyo and Mono Counties) to specify compliance with Section 5937 of the Fish and Game Code.
5. The License was issued without referencing compliance with Section 5937.
6. Since amendment of License 5459 to require compliance with Fish and Game Code Section 5937 is a ministerial action, this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines in accordance with Section 21080 of the Public Resources Code.

NOW, THEREFORE, IT IS ORDERED THAT:

The following condition is added to this License:

In accordance with the requirements of Fish and Game Code Section 5946, this License is conditioned upon full compliance with Section 5937 of the Fish and Game Code.

Dated: . **JUNE 16 1997**


Walt Pettit
Executive Director



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

Notice of Assignment (Over)

APPLICATION 11682

PERMIT 6817

LICENSE 5459

THIS IS TO CERTIFY, That

Grace S. Pearson, J. E. Pearson, Merle Pearson and
Ann Pearson Liles

c/o J. E. Pearson, Agent

Hilton Lakes Camp, Bishop, California

have made proof as of June 23, 1958

(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
Hilton Creek in Mono County

tributary to Owens River

for the purpose of domestic and stockwatering uses
under Permit 6817 of the State Water Rights Board and that said right to the use of said water has been
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the
terms of the said permit; that the priority of the right herein confirmed dates from January 6, 1947
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed one thousand six hundred
fifty (1650) gallons per day to be diverted from January 1 to December 31 of each
year.

The point of diversion of such water is located :

South one thousand (1000) feet and west one hundred thirty-five (135) feet from NE
corner of Section 34, T4S, R29E, MDB&M, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 34.

A description of the lands or the place where such water is put to beneficial use is as follows:

NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 34, T4S, R29E, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of
diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time
to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

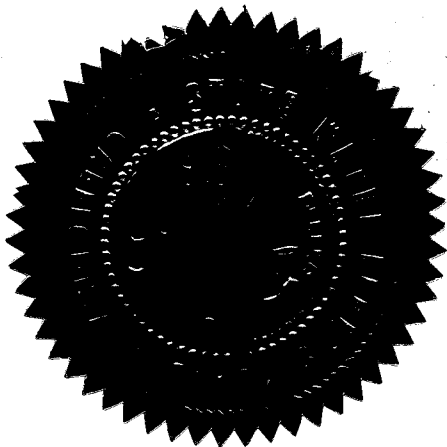
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: MAR 24 '59



L. K. Hill
L. K. Hill
Executive Officer

12-28-61 RECEIVED NOTICE OF ASSIGNMENT TO *Edward L. Kyte*
and *Lillian Z. Kyte*

10/6/67 RECEIVED NOTICE OF ASSIGNMENT TO *Thomas Williams*

6-19-70 Name of *Kathleen D. Williams* added;

3-17-83 Asgd to *Carl & Ida Berner*

4/10/92 Not. of asgd: Lic#5459 ✓
Brian & Danica Berner App#11682

LICENSE 5459
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO *Grace S. Pearson, et al.*

MAR 24 '59

DATED

72849 2-58 5M ① SPO